Previous references.

1912
190 .

File No. 11—13

Serial Nos. 1 to 5

Later references. (Margosi)

-1 2

Mag Rs p 141 52

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5

Part B. for Collector 13

SUBJECT.

Re Cluj of a mosque, Annaiama-
halli Thanjavur Taluk.

Table of Contents

1. Petition from Muthiram & others dt 31-3-13
   Re Cluj of a mosque in certain conditions
2. To Dy Collr Tanj Doc No 3086 dt 16-4-13
   Calls for the, forthwith, records
3. From the Dt Magt Tanj Doc No 640 dt 2-5-13
   Transmits the petition & the records
4. To Dt Magt Tanj Doc dt 2/10/13 No 1060
   Forwards the petition & returns the records
5. Sent to the petitioners Re Rs dt 29/11/13

U. D. S.

Annaimalai, Thanjavur
Records 25 1-14

G.R.S. 11] 1912-13

GENERAL AND REVENUE SECRETARIAT.

(~~Police~~ Mucg)

NOTES.

11-13
File No. ~~211-12~~

FILE HEADING.

Appeal of the Mahomedans of Haradanahalli in the Chamarajnagar Tk. against the order of the Dy.-Comr. refusing the conditional grant of licence to rebuild the mosque.

From

Hussain Sab & other Mahomedans of Haradanahalli Chamarajnagar Tk.

No. .. Dated 31.3.13 Received 4.4.13

Diary No. J2816	Enclos.	Spare Copies. ..	Serial No. 1

BRIEF ABSTRACT OF LETTER

Appeals against the order of the Dy.-Comr directing the grant of a licence to them to rebuild the mosque with the condition that the Hindus should be allowed to take their procession with music in front of the mosque

NOTES AND ORDERS.

Subo. This is a matter to be dealt with in the Muzrai Branch. May this be transferred to that Branch?

NOTES—First Sheet. (5) 5.4.13

D 7 Secy) SD 5/4

Secy) Decree 5/4

R. S. 12]

General and Revenue Secretariat.

~~Police~~ Jury File No. ~~21~~ 11 of 1912-13

Serial No.

1st Councillor's order on the linked file regarding the petitioners prayer for a stay order:—

"The petitioners have a right to an order of stay from this Office so the appeal has been expeditiously presented to Govt.

This may be taken up along with the same case. A report with records may be called for."

8-4-13 (Sd.) H.V.N.

A Draft in accordance with the above is added.

BS 16/4/13 SDK 16/4.

Please treat as urgent

Dr Secy 16/4

SDK 16/4

DMK 16/4

Issue SDK 16/4

8/m 16/4

NOTE—Contn.. sheet.

G I P— 65,000— 17-6-12.

G. R. S. 12]

General and Revenue Secretariat. | Revenue File No. 11 2-11 of 191 3-1-14

Serial No.	
2	To The Dy. Comr. & Dt. Magte. Mysore Dt. no. J3086 D/16.4.13 calls for a report with the records & directs that the Dy. Comrs order be kept in abeyance pending disposal of the appeal.
3	From The Dt. Magte Mysore no 640 D/2.5.13 forwards the report & the records called for in the above. The Mahomedans of Harada-nahalli applied on 10.3.10 to the Amildar of Chamarajnagar Tk for a license to build a new masjid in place of the old dilapidated building and to build a Hindustani School in the same compound On enquiry it was found that the non-musalmans, (except the Parivaras) of the village had no objection to the grant of the license provided they were not obstructed in carrying their processions with music through the street to the east of the Masjid to which a door has been opened comparatively recently But the Parivaras objects to the existence of the new door to the east of the masjid & wanted that it should ordered to be closed, the people resorting to the Masjid

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat.

Judy Police File No. 11 24 of 1913-14

Serial No

making use of the old doorway to the South

Several petitions were presented to the authorities by both the parties urging their claims to the stoppage of processional music before the mosque or otherwise and, reclaiming that each considered to be the manual

The case was finally submitted to the Dt Magistrate for orders that officer in order dated the 2nd September 1912 decided that the Masjid was not one entitled to the cessation of processional music and authorised the Chairman of the Chamarajnagar TB to issue a license to rebuild the Masjid subject to the conditions laid down in the correspondence ending with the Chairman's report no 282-86 D/1912 11

The conditions mentioned in the correspondence referred to are.—

(1) That the proposed new Masjid should have no claim to interfere with processions of Gods or marriage processions &c. which are by manual now passing in front of the Masjid with music

(2) That the gate or wicket now

NOTE—Contn. sheet.

GPR—65,000—17-6-12

G. R. S. 12]

General and Revenue Secretariat. | Police File No. 211 of 1913-14

Serial No.

existing in the compound should not be interfered with.

(3) That the Mahomedans should not object to the passing of any procession with music in front of the Masjid which any proper authority or court may decide as having a right to do so.

The Mahomedans moved the Chief Court to revise the order of the Dt. Magte but that Court following the decision in 18 C.C.R. 1 (2 C. on the ground that the order complained of was of the nature of an executive order) held that the Court had no jurisdiction.

The Mahomedans have, therefore, now appealed to Govt. against the order of the Dt. Magte and pray for the grant of an unconditional licence to rebuild the Masjid on the ground that the Masjid is an old one enjoying (from time immemorial) the ~~right~~ privilege of having processional music stopped.

The grounds of appeal and the facts that rebut or support them are noted below:—

P.T.O.

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

~~Secret~~ Mercy File No. 11 2/T of 191 3-1/4

Serial No.	Appeal grounds	Facts supporting & rebutting
	1 The Licensee accepts for us not to build a new Masjid but to restore an old one which enjoying all the privileges of a well built Masjid in the parts of the State	A Masjid of 3 ankanas called at Hatadanchelli in 1862 3 (Vide Khanesha-mari Cheque) This fell into decay and by the years 1864 65 & 1865 66 there was no Masjid at all (Vide Khancolum Cause Register) It has been established before the 1st Class Magistrate Mysore Dist in 1880 that the Hindus were passing before the Masjid with music On appeal also case nos 7232 of 1880 on the file of the 2nd Addl Court & 1-1 Class Magistrate Mysore Dist it has been decided that the Masjid in question is not entitled to the stoppage of processional music. The fact that the Masjid does not find a place in the list of institutions entitled to the privilege prepared in 1876, goes to show that it was not an important one even of it existed at the time
	2 The Dt Magistrate overlooked the important fact that the Masjid is recognised by the Mysore Dept & that the Khazee is paid a monthly stipend	The stipend of 9 as paid by the Mysore Dept is a personal emolument attached to the office of the Khazee of the village and not to the Masjid (Vide Amildar's Report & the Stipendiary order)
	3 The Dt Magistrate gave undue importance to the list prepared by the Shanbhog, an interested person	The list of places entitled to cessation of processional music was prepared in 1876 long before there was any dispute between the Hindus & Mahomedans & the first dispute being in 1880) and was found in the Dt records

NOTE—Contn sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat.

Mysy Police File No. 11 211 of 191 3-1 By

Serial No.		
	4. The Dl. Magte erred in holding that the road in front of the Masjid was the only road by which processions could pass from the village to the tanks while in fact there is another road leading to the same destination	In the sketch contained in the records there is a street to the south of the Masjid leading to the pond. Probably this is the 2nd road referred to by the appellant in his deposition before the Mysore City Magte in Criminal case no. 5 of 06-07 Shanbhog Narsimhaswami has stated that there is a way to the south of the Masjid to go to the Agrahara. One from Parwar Street & carriages pass in that street. This is probably the same as referred to above granting licenses & refusals
	5 The Dl. Magte. did not exercise his discretion properly in passing the order appealed against inasmuch as he passed it while the matter was sub judice before the Munsiff of Narsimharaja.	The order is an executive order passed in exercise of the powers vested in the Dl Officer by the Govts circular no 2528-6672 B/22 & 1871 and not one passed under the Police Regulation and is therefore not subject to any decree or injunction that may be granted by a Civil Court as required by Sec 41(a) of the Police Regulation

Subd. for orders with a set of orders relating to the grant of licenses to build mosques. It is respectfully subd that the grant of license to build a mosque seems to be more a Muzrai matter than a Police matter. If approved this will be transferred to the Muzrai Branch.

B.G. 6/11/13. SVR 21/11/13

This may be done. The matter can best be treated in the Muzrai Section

Dy Sec) I have no objection SVR 23/6 Dy 23/6

By VII) SVR 23/6

NOTE—Contn. sheet.

GPB—65,000—17-9-12.

9

G. R. S. 12]

General and Revenue Secretariat.

Misc Police File No. 11 of 1912-13

Serial No.

Please put up a note on merits. The Dy. Comm's order appears to follow the precedents if the Masjid is really a new one

Dr.
2.5

In the years 1862-3, there was a mosque at Haradanahalli (Vide extract from the Khanesmari Book of 1862-3)- In their License application Dy 10th march 1910 to the Dy Cutcherry, the Mahomedans pray for permission to knock down the dilapidated masjid building on Khanesmari no 553 and to construct in its stead, a new masjid and a Hindustani School thereon. The Dy. Comm's. order ~~no doubt~~ follows the precedents if the masjid is really a new one. The contention in the present case is that the masjid though old, did not enjoy the privilege of the stoppage of the processional music; and the masjid after it is newly built, cannot claim any new right. Submd. for orders.

AVC 13-2
14.7.13

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

C R. S. 12]

9

General and Revenue Secretariat. | Ruby File No. 11 of 1913-14

Serial No.

PC

Subt to Hble Councillors.

The matter for decision in relation to two questions

(1) The grant of licence to Mandanbaki Musulmans to rebuild their Masjid subject to the condition that they do not object to processions with Music along the road into which the Masjid opens at present.

(2) The grant of licences to people of other persuasions to carry processions along the road to the East of the Masjid without stoppage of Music.

Both the questions are intimately connected. There is no doubt that in the cases of new construction of Mosques, the Govt have been laying restrictive conditions so as to avoid conflict of rival sects and the ~~Dist~~ District Magistrate's order was the guide regulating the present case is one of new construction. There is however some evidence to show that a mosque existed at the place in 1862-63, though it has been allowed that this evidence is by no means quite satisfactory, in view of the fact that the original Kamashmari for the year is not for the coming and that the

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

C. R. S. 12]

General and Revenue Secretariat. File No. // of 1913-14

Serial No.

Karachi for subsequent years mid. any mention of the institution which it is also significant that the list of 1876 relating to the religious institutions before which music should be stopped omits mention of the mosque ~~which has since~~ enumerating at the same time two other institutions at the place. No inference as regards the existence or non-existence of the institution at the time can be drawn with any degree of probability from these two facts.

It is however clear that the Masjid was in existence prior to 1880 from the Mis. cases before the 2nd Asst. Commr. & 1st Class Magistrate. It is also equally clear that the institution was not entitled to stoppage of Music and this right could not have been gained since then. It is not unlikely that the original gate of the Masjid was to the South and as the Masjid enclosure would then be separated from the road to the South by intervening space, there was no trouble about the stoppage of Music. There is however no clear evidence to the effect that the present open space to the East was so

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

C. R. S. 12]

General and Revenue Secretariat.

File No. 11 of 1913-4

Serial No.

date and that the matter was neglected without proper notice being taken about it either by the villagers or by the Taluk authorities.

The so-called Municipal tradition imposed by the District Magistrate in the grant of the license to enclid is merely nominal as it only recognises the right of other Communities to have a passage over a public way.

Ld
22.7.13.

I do not see any sufficient reason to interfere with the order passed. Before passing final order, I shall like to hear if Petrs have anything further to say.

26/7/13

Ld 29/7 Open 29/7

Murai (Br) 29/7

Post the case for hearing on 1st Aug. and issue notices in meanwhile

Ld
26.7.13

Dfs 30/7/13 Subject

Note—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

Serial No.

Hussein Sâbi is present

Says that he has engaged an advocate & left Papers with him.

It is unnecessary to wait for the advocate in this case.

An order may be drafted declining to alter the D.C.'s order.

14/8/13

Submtd. with a Dft. order

NV(115) 9.9.13.

20/9/13 Fair draft

Lin 4.9.13

Fair Dft. submtd to Lt. Councillor

NV(115) 16.9.1913

Lin 18.9.13

4 Draft appd: by Lt. Councillor 20.9.13

Dft

To the Dt. Inspr. Constabulary Cove

Inw 10600 of 2/10/13

Copy of the order

Lin 24/9.

5 Dft. Instr. submtd as directed.

NV (115) 14.10.1913

Instr. to the Petitioner

Lin 11.10.13

Inw 11600 of 29-10-13

sheet...

GPB—6,000—1,912

To

THE GOVERNMENT OF MYSORE
Through the Chief Secretary
of the Genl. & Rev. Departments,
B A N G A L O R E.

Appellant:-

HUSSAIN SAB,
Representing the Mahomedan Community,
Haradanhalli, Chamarajanagar Taluq.

VS

Respondent:-

LINGAPPAIYA and others,
Brahmins residing in Haradanhalli,
Chamarajanagar Taluq.

----o----

The appellant above-named begs leave to file this Appeal against the order of the District Magistrate in Cr. ~~Division~~ Miscelaneous petition No.15 of 12/13 on the following grounds.--

That there has been in existence a Mazjid in Haradanhalli, Chamarajanagar Taluq, from time immemorial frequented by about 50 Mussalmans -- families of the place for purposes of devotional worship. By reason of internecine feuds amongst Mussalmans in Haradanhalli, the Muzjid was not kept in good repair. After the cessation of the feud, all the Mussalmans joined together and seriously thought of repairing and rebuilding the -- Muzjid, and applied to the Amildar for the grant of the necessary license. But the Brahmins of Haradanhalli who were hostilely disposed towards these Mussalmans objected to the grant of the license, unless the Mahomedans agreed to allow the other communities to march in procession with band and music in front of the mosque. The matter was referred to the District Magistrate who held that the mosque did not enjoy the privilege of having the music stopped in front of it and permitted the Mahomedans to reconstruct the same with the obligation that they should allow all processions to march in front of the same with band and music. Against this order, the --

Appellant filed

filed an Appeal before the Honorable the Chief --- Court in Criminal Revision Petition No.76/12-13, and the Chief Court passed an order thereon on the 10th instant, dismissing the application with the observation that the Chief Court had no jurisdiction to entertain such applications (relying on 18 M.C.C.R. P I). Hence the appeal to the --- Government on the following grounds.-

G R O U N D S.

I. The Mussalmans did not at all pray for the grant of a license to build any new Musjid but only to restore an old one which had been enjoying all the privileges of a magnificient and well-built Masjid in the other parts of the Province.-

II. The District Magistrate overlooked the important fact that the Maszid was recognised by the Muzeroy Department and that the Khajee was paid a monthly stipend by the Government in addition to other gifts on festive occasions.-

III. That the District Magistrate erred in giving undue importance to the list prepared by the ---- Shanbhog, an interested Brahmin belonging to the -- hostile camp when fixing the places where music --- should stop.-

IV. That the District Magistrate erred in holding that the road, in front of the Muszid was the only road by which processions could pass, from the village to the tank, while in fact there is another road which leads to the same destination.-

V. That the District Magistrate did not exercise his discretion properly when passing the order though he was informed that a suit involving the same point was sub-judice on the file of the Munsiff of Nanjangud,

and the case may lie over until the point was decided in the Civil suit.-

VI. That the inferences drawn by the District Magistrate from the evidence recorded by the Amildar are erroneous.-

VII. That by reason of the unsolicited order of the District Magistrate, the Thoreyars of Haradanhalli who never used to pass with band and music before the Muszid and who had filed the aforesaid -- Original suit before the Munsiff of Nanjangud, got emboldened and while the matter under reference is still sub-judice before the Munsiff of Nanjangud, filed an application before the Amildar of Chamarajanagar for the grant of a license to march in procession with band amd music before the Appellant's Muszid contrary to a well-established usage or mamool having the force of Law. The Amildar sent up the records to the Sub-Divisional Officer who relying on the order of the District Magistrate under appeal, sanctioned the prayer of the Thoreyars with the result that the Thoreyarse are contemplating to have a procession of Manteswami gaddige, an incident which was never heard of. The said procession is not merely contrary to mamool, but is one that is likely to wound in a serious -- manner the religious sentiments of the Mussalman inhabitants of Haradanahalli, and ultimately result in a breach of the peace. It is most respectfully prayed that, until a decision is given by the ---- Government regarding the matter complained of by the present appellants, directions may issue to the -- authorities concerned to keep in abeyance the execution of the license granted in favour of the Brahmans and the Thoreyars.

Thro. Syed Ahmed Sahib
31-3-13

P. S.

The copy of the order appealed against was filed along with the Revision petition to the Hon'ble Chief Court. So, the appellant begs to submit that he has filed only a copy of the order along with this. ಮೂಲ ಆದೇಶದ ಪ್ರತಿಯನ್ನು

Reg 30 14

In the court ~~of~~ of the District Magistrate

Mysore. This the 2nd day of September 1912.

Present:- K Krishna Iyer Esquire

District Magistrate Mysore.

Criminal misc Petition No 15 of 12-13

Petitioners
Rasool Sabi and
other Mahamedans.

Counter Petitioners
Krishnavadhani and
other Hindus

In

on a perusal of the reference by the Sub-Division and 1st class Magistrate of the Nanjana good Sub Division forwarding a Chamarajnagar Taluk Amildar Magistrate's report No 282/86 dated 19-12-11 to the Sub-Divisional Magistrate Nanjanagood regarding the grant of license to the Mahamedans to build the masjid; to the Hindus to take procession of Gowri with music before the masjid of Haradanahalli Chamarajnagar Taluk, the following order was passed by the court.

Order

I have perused the records carefully. The masjid in question seems to be a new one having been restored or built upon the site of an old one and it is not of much importance either. It is an institution which is not included in the list of the 64 institutions that are entitled to claim the privilege of having the music stopped in front of them. Further from the evidence on both sides it is seen that this masjid

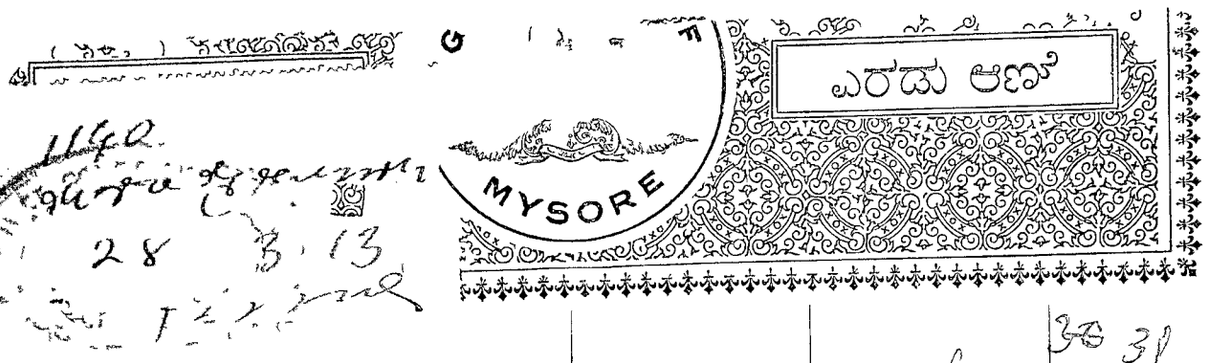
is not entitled to that privilege by long established custom or usage, The Mahamedans now want to get up a new claim. The Mahamedans before me stated that they have no objection to allow the Sirkar Yowri (Temple) to pass in procession in front of their masjid with band and music but object to other Yowri procession doing so. This to say the least is very unreasonable. If they are willing to allow one procession to pass along with music I do not see the reason of their objection to other similar processions

Such new privileges which have not the sanction of long usage cannot now be granted to them, as it has not been recognised by the authorities.

Under all circumstances the Mahamedans cannot have such rights and the Yowri processions are entitled to pass in front of the masjid without stopping the music

This is the only road by which such processions can pass from the village to the tank. The Amildar may grant a license to rebuild the masjid subject to the conditions laid down in correspondence ending with his report No 282/86 dated 19-12-12

(Sd) K. Krishna Iyer
District Magistrate
2-9-12 Mysore



HGQ
28 B 13

30 31

In the Sheriff's Court of Mysore at Bangalore.

Monday the 10th day of March 1913

Before Mr. Justice P S Krishna Rao. Rao Bahadur

Sheriff Judge

Criminal Revision petition No. 76 of 1912-13

presented by Mr. T Shamiengar, advocate on behalf

of (1) Hussain Sab (2) Ghouse Sab, petitioners praying

that the proceedings of the District

Magistrate in Criminal Misc. petition

No. 15 of 1912-13 may be called for and revised

This petition coming on for admission

this day the Court upon perusing the Record

the case hearing the arguments of the

said advocate pronounced the following -

Order

Following the decision in 18 Mys. C.C.R.J.

Muzrai, dated 2nd October 1913.

MEMO No. 1060—MUZ. 11-13-4, DATED BANGALORE, 2ND OCTOBER 1913.

Copy of the above is forwarded to the District Magistrate, Mysore, returning the records received with his letter No. 640, dated the 2nd May 1913.

By Order,

Secy. to Govt., Gen. & Rev. Depts.

Exd.—C. R.

1913-14

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

MUZRAI

PROCEEDINGS

Dated 2nd October 1913

No. 1060
Muz. 11-13-4

Passing orders in the matter of the stoppage of processional music in front of the masjid at Haradanahalli in the Chamrajnagar Taluk.

G.P.B.—25-10-13—200